

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**CAMPAIGN FOR SOUTHERN
EQUALITY *et al.*,**

Plaintiffs,

vs.

**The MISSISSIPPI DEPARTMENT OF
HUMAN SERVICES *et al.*,**

Defendants.

**CIVIL ACTION
NO. 3:15-cv-00578-DPJ-FKB**

**REPLY DECLARATION OF BRIAN POWELL, PH.D., IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

BRIAN POWELL, Ph.D., declares under penalty of perjury, pursuant to 28 U.S.C.

§ 1746, as follows:

1. I am the James H. Rudy Professor in the Department of Sociology at Indiana University and the Chair of Indiana University's Department of Sociology. I hold a Bachelor's degree in sociology from Hobart College in Geneva, New York (1976), and a Master's degree and Ph.D. in sociology from Emory University in Atlanta, Georgia (1980 and 1984, respectively). I have taught at Indiana University since 1985.

2. As a sociologist, my research focuses on family sociology, the sociology of education, gender, and social psychology. With grants from the National Science Foundation, American Educational Research Association, and the Spencer Foundation, I have examined how families confer advantages (or disadvantages) to their children and how structural and compositional features of families (*e.g.*, parental age, family size, birth order, one vs. two-parent households, inter-racial composition, same-sex vs. different-sex parents, and adoptive vs. biological parents) influence parental social, intellectual, and economic investments in children. My research has an emphasis on several increasingly visible groups of “atypical” family forms: families with older parents, bi/multiracial families, adoptive families, and gay/lesbian families. I also examine public opinion regarding family forms, family policy, and gender.

3. I am the lead author of *Counted Out: Same-Sex Relations and Americans' Definitions of Family*, which won the American Sociological Association Section on Family's William J. Goode Book Award, the Midwest Sociological Society's Distinguished Book Award, and the North Central Sociological Association's Scholarly Achievement Award. I have co-authored several scholarly articles relating to same-sex parenting, including *Adoptive Parents, Adaptive Parents: Evaluating the Importance of Biological Ties for Parental Investment*, 72 Am. Sociological Rev. 95 (2007) and *Measurement, Methods, and Divergent Patterns: Reassessing the Effects of Same-Sex Parents*, 52 Soc. Sci. Research 615 (2015).

4. I am the author of numerous articles that have appeared in the major peer-reviewed sociological journals, including *American Sociological Review*, *American Journal of Sociology*, *Social Forces*, *Journal of Marriage and Family*, *Social Psychology Quarterly*, and the *Journal of Health and Social Behavior*. For these and other work, I have received scholarly and teaching awards from the American Sociological Association Emotions Section, the American

Sociological Association Sex and Gender Section, the American Educational Research Association, the Center for Work and Families, and Indiana University.

5. In addition to my work as a professor and researcher, I recently completed a term as the Vice President of the American Sociological Association and currently serve as a member of the General Social Survey Board of Overseers. I also have served as the chair of the Sociology of Education and the Social Psychology Sections of the American Sociological Association; the deputy editor for *American Sociological Review*, *Sociology of Education*, and the *Journal of Health and Social Behavior*; an editorial board member of *Social Psychology Quarterly*; and a reviewer for the National Science Foundation, the Spencer Foundation, the Harvard University Press, the Oxford University Press, and the University of California Press, among others.

6. The statements set forth in this declaration are based on my own research, twenty-nine years as a professor teaching classes on research methods, sociology, gender, and family, and the work of other scholars and authors, including those cited in the bibliography attached hereto as Exhibit A.

7. I have been retained as an expert in the above-referenced litigation to respond to the argument made by Defendants Governor Phil Bryant, Attorney General Jim Hood, the Mississippi Department of Human Services, and Executive Director Richard Berry in their Memorandum of Authorities Supporting Defendants' Response to Motion for Preliminary Injunction that the Mississippi Legislature was justified in banning same-sex couples from adopting because dual-gender parenting is preferable to same-sex couple parenting. I have actual knowledge of the matters stated in this declaration and could and would so testify if called as a witness.

8. My background, experience, and publications are provided in detail in my curriculum vitae attached hereto as Exhibit B.

* * *

9. In their Memorandum of Authorities Supporting Defendants' Response to Motion for Preliminary Injunction, the Defendants attempt to justify Mississippi's ban on adoption by same-sex couples by asserting that "the Mississippi Legislature has concluded that dual-gender parenting is preferable and should be encouraged where possible by prohibiting adoption by same-gender couples." (D.E. 21, at 18.) This conclusion conflicts with the overwhelming body of mainstream social scientific research. Indeed, the scholarly consensus in the social scientific community is that children of gay and lesbian couples fare just as well as children raised by different-sex parents across a wide variety of developmental metrics.

10. This position is held by two major professional associations: the American Psychological Association and the American Sociological Association.¹ Both of these associations have systematically examined the empirical evidence on this issue. The American Psychological Association has concluded that "[t]he factors that affect the adjustment of children are not dependent on parental gender or sexual orientation" and that "[t]here is no scientific basis for concluding that same-sex couples are any less fit or capable parents than heterosexual couples, or that their children are any less psychologically healthy and well adjusted." Br. for Am. Psychological Ass'n, *Obergefell v. Hodges*, at 18 & 22. The American Sociological

¹ See Br. for Am. Psychological Ass'n, *et al.* as *Amici Curiae* Supporting Petitioners, *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015) (No. 14-556); Br. for Am. Sociological Ass'n as *Amicus Curiae* Supporting Petitioners, *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015) (No. 14-556); Br. for Am. Sociological Ass'n as *Amicus Curiae* Supporting Respondents Perry and Windsor, *Hollingsworth v. Perry*, 133 S. Ct. 2652 (2013) (No. 12-144) and *United States v. Windsor*, 133 S. Ct. 2675 (2013) (No. 12-307); Am. Psychological Ass'n, *Resolution on Sexual Orientation, Parents, and Children*, 60 Am. Psychologist 496 (2005).

Association has reached a similar conclusion: it notes that “[t]he scholarly consensus is clear and consistent: children of same-sex parents fare just as well as children of different-sex parents” and any “[c]laims that children fare better with different-sex parents than with same-sex parents are unsupported by existing social science research.” Br. for Am. Sociological Ass’n, *Obergefell v. Hodges*, at 5 & 13.

11. I agree completely with these conclusions. They are based on a notable, significant body of literature that finds minimal differences in academic performance and achievement, social development, psychological well-being, and behavioral challenges, among others, between children raised by same-sex parents and those raised by different-sex parents.²

² Many studies on same-sex parenting have been published in academic, peer-reviewed journals, including dozens since 2000. These studies have employed a variety of research methods and have utilized data from thousands of research participants. The following articles comprise a subset of the body of research on same-sex parenting: Simon Cheng & Brian Powell, *Measurement, Methods, and Divergent Patterns: Reassessing the Effects of Same-Sex Parents*, 52 Soc. Sci. Research 615 (2015); Jimi Adams & Ryan Light, *Scientific Consensus, the Law, and Same Sex Parenting Outcomes*, 53 Soc. Sci. Rev. 300 (2015); Abbie E. Goldberg & JuliAnna Z. Smith, *Predictors of Psychological Adjustment in Early Placed Adopted Children with Lesbian, Gay, and Heterosexual Parents*, 27 J. of Fam. Psychology 431 (2013); Michael J. Rosenfeld, *Reply to Allen et al.*, 50 Demography 963 (2013); Justin A. Lavner, Jill Waterman, & Letitia Anne Peplau, *Can Gay and Lesbian Parents Promote Healthy Development in High-Risk Children Adopted from Foster Care?*, 82 Am. J. of Orthopsychiatry 465 (2012); Michael J. Rosenfeld, *Nontraditional Families and Childhood Progress through School*, 47 Demography 755 (2010); Timothy J. Biblarz & Judith Stacey, *How Does the Gender of Parents Matter?*, 72 J. of Marriage & Fam. 3 (2010); Alicia L. Fedewa & Teresa P. Clark, *Parent Practices and Home-School Partnerships: A Differential Effect for Children with Same-Sex Coupled Parents?*, 5 J. of GLBT Fam. Studies 312 (2009); Jennifer L. Wainright & Charlotte J. Patterson, *Peer Relations among Adolescents with Female Same-Sex Parents*, 44 Dev. Psychology 117 (2008); Fiona Tasker, *Lesbian Mothers, Gay Fathers, and Their Children: A Review*, 26 Dev. and Behavioral Pediatrics 224 (2005); Jennifer L. Wainright, Stephen T. Russell, & Charlotte J. Patterson, *Psychosocial Adjustment, School Outcomes, and Romantic Relationships of Adolescents with Same-Sex Parents*, 75 Child Dev. 1886 (2004); Susan Golombok *et al.*, *Children with Lesbian Parents: A Community Study*, 39 Dev. Psychology 20 (2003); Raymond W. Chan, Barbara Raboy, & Charlotte J. Patterson, *Psychosocial Adjustment among Children Conceived via Donor Insemination by Lesbian and Heterosexual Mothers*, 69 Child Dev. 443

This research confirms that children of same-sex parents show no additional behavioral, emotional, or mental health issues compared to children raised in other family structures. Indeed, to the contrary, same-sex parents show high levels of parental skills and involvement with their children. *See* Kate C. Prickett, Alexa Martin-Storey, & Robert Crosnoe, *A Research Note on Time with Children in Different- and Same-Sex Two-Parent Families*, 52 Demography 905 (2015)

12. The social science research supporting these conclusions is based on both small-scale and large-scale, national studies of families. Both provide important complementary approaches to understanding the consequences of living in different family structures in the United States. Representative of the latter approach is the scholarship of Michael J. Rosenfeld, whose systematic statistical peer-reviewed analysis of the 2000 U.S. Census concludes that among families with roughly equivalent income and education levels, children raised in same-sex households fare just as well in terms of educational progress as children raised in married, heterosexual households. *See* Rosenfeld at 963; Rosenfeld at 755. Other studies similarly demonstrate that children raised by same-sex parents show no differences in terms of academic achievement, social development, or mental health as compared to children raised by different-sex parents. *See, e.g.*, Fedewa & Clark at 312; Wainright & Patterson at 117; Wainright *et al.* at 1886.

13. The absence of differences also discredits the notion that the presence of both male and female role models in the home enhances children's and adolescents' adjustment. Social science research establishes that both men and women have the capacity to be good parents. Studies have shown that, when parents receive their children, men and women have the

(1998); David K. Flaks *et al.*, *Lesbians Choosing Motherhood: A Comparative Study of Lesbian and Heterosexual Parents and Their Children*, 31 Dev. Psychology 105 (1995).

capacity to be equally competent at parenting. Moreover, as they spend time with their children, men and women can and do adopt both sensitive (stereotypically female) and authoritative (stereotypically male) parenting styles. In other words, parenting skills and attributes are not gender exclusive.

14. The conclusion that Rosenfeld and others have reached regarding same-sex parenting is typical. In fact, the level of consistency in the patterns found in studies of same-sex vs. different-sex couple parenting is remarkably high in terms of social science research. In their recent analysis of citations and citation networks from thousands of publications from the past few decades, Jimi Adams and Ryan Light document that scholarly agreement regarding this conclusion is “overwhelming.” Adams & Light at 307.

15. The level of consensus from methodologically sound research is in fact so great that it is not undercut by the very few outliers that purport to conclude that there are differences between children raised by same-sex parents and those raised by different-sex parents. Of these outliers, the most cited is the analysis of Mark Regnerus. See Mark Regnerus, *How Different Are the Adult Children of Parents Who Have Same-Sex Relationships? Findings from the New Family Structures Study*, 41 Soc. Sci. Research 752 (2012); Mark Regnerus, *Parental Same-Sex Relationships, Family Instability, and Subsequent Life Outcomes for Adult Children: Answering Critics of the New Family Structures Study with Additional Analyses*, 41 Soc. Sci. Research 1367 (2012). Using originally collected national data—the New Family Structures Study—Regnerus purported to compare the outcome profiles of 236 adult children whose parents, according to Regnerus, had a same-sex romantic relationship (which he refers to as “gay father” and “lesbian mother” households) with the outcomes of those who grew up in “intact biological families.” Analyzing forty emotional, relational, and social outcomes, he concludes that adult children from

intact biological families fare better than children from lesbian mother and gay father households on a number of outcomes.

16. Regnerus's research has received highly critical assessments that have been published in academic journals,³ outlined by a group of more than one hundred social scientists,⁴ and described in detail by the American Sociological Association.⁵ These critics have called into question the study's design, the data quality, and the integrity of the review process that resulted in the publication of the article. Among critics' concerns are the Regnerus studies' failure to: (1) actually study individuals who were raised by two same-sex parents;⁶ (2) assess whether a child's "same-sex parent" is indeed gay or lesbian; and (3) distinguish between the effect of having a same-sex parent and the effect of family transitions, such as instability and divorce. In my assessment, these concerns persuasively challenge the conclusions made by Regnerus.⁷

³ Michael J. Rosenfeld, *Revisiting the Data from the New Family Structure Study: Taking Family Instability into Account*, 2 Sociological Sci. 478 (2015); Andrew J. Perrin, Philip N. Cohen, & Neal Caren, *Responding to the Regnerus Study: Are Children of Parents Who Had Same-Sex Relationships Disadvantaged? A Scientific Evaluation of the No-Differences Hypothesis*, 17 J. of Gay & Lesbian Mental Health 327 (2013); Darren E. Sherkat, *The Editorial Process and Politicized Scholarship: Monday Morning Editorial Quarterbacking and a Call for Scientific Vigilance*, 41 Soc. Sci. Research 1346 (2012).

⁴ Gary G. Gates *et al*, *Letter to the Editors and Advisory Editors of Social Science Research*, 41 Soc. Sci. Research 1350 (2012).

⁵ Br. of Am. Sociological Ass'n, *Obergefell v. Hedges*; Br. for Am. Sociological Ass'n, *Hollingsworth v. Perry and United States v. Windsor*.

⁶ In fact, only two individuals in the study reported living with two same-sex parents throughout childhood.

⁷ A subsequent article that claimed to reach the same conclusions as those of Regnerus, using a Canadian sample, also has been legitimately criticized for its inability to determine the residential history of the youths studied, its reliance on an atypical sample of young adults, and its overstating of claims—as indicated in part by an erratum published by its author. See Douglas W. Allen, *High School Graduation Rates among Children of Same-Sex Households*, 11 Rev. of Econ. of the Household 635 (2013); Douglas W. Allen, *Erratum to: High School Graduation Rates among Children of Same-Sex Households*, 12 Rev. of Econ. of the

17. Despite the powerful criticisms of his study, Regnerus and colleagues in a subsequent *amicus* brief defended the study by claiming that “despite the attention and scrutiny, the study remains in print and sequence analyses of the (now-publicly-accessible) data have revealed no analytic errors.” Br. of Social Science Professors as *Amici Curiae* Supporting Defendants, *Robicheaux v. Caldwell*, 2 F. Supp. 3d 910 (E.D. La. 2014) (13-05090), at 19. This is no longer true. In fact, in a 2015 article, my colleague Professor Simon Cheng from the University of Connecticut and I reanalyzed the New Family Structure Survey, *i.e.*, the dataset that Regnerus used in his studies. *See Cheng & Powell* at 615.⁸ In doing so, we identified several serious problems in the decisions that Regnerus made regarding measurement and models and, in turn, demonstrated that the patterns reported in his paper are mostly the result of these problematic decisions.⁹ More specifically, we found that:

- a. A large number of respondents in the analyses were misclassified as having been raised in a lesbian mother or gay father household. We estimated the misclassification to exceed one-third of this subsample. The primary sources of these misclassification errors were:
 - i. The inclusion of respondents whose highly implausible responses to other questions lend doubt to all of their responses (*e.g.*, a 25-year old man

Household 207 (2013). Two other recent articles also did not systematically take into account family stability and family transitions and were not subject to the rigorous review process that most peer-reviewed journals provide. *See D. Paul Sullins, Child Attention-Deficit Hyperactivity Disorder (ADHD) in Same-Sex Parent Families in the United States: Prevalence and Comorbidities*, 6 British J. of Med. & Med. Research 987 (2015); D. Paul Sullins, *Emotional Problems among Children with Same-Sex Parents: Difference by Definition*, 7 British J. of Educ., Soc. & Behavioural Sci. 99 (2015).

⁸ A copy of this article is attached hereto as Exhibit C.

⁹ A second article reanalyzing the Regnerus data but focusing on other modeling concerns also calls into question Regnerus’s conclusion. *See Rosenfeld* at 478.

who reported that his father had a romantic relationship with another man, but also reported that he was 7-feet 8-inches tall, weighed 88 pounds, was married 8 times, and had 8 children);

ii. The classification of respondents as being raised by a lesbian mother or a gay father even when the respondents reported never living or living very briefly (*e.g.*, a year or less) with that parent; and

iii. The classification of respondents as being raised by a lesbian mother or gay father even when their responses to calendar data (*i.e.*, questions that asked respondents to specify with whom they lived during each year of their childhood) were inconsistent with the categorization.

b. Multiple methodological and modeling decisions made by Regnerus—decisions that have plausible alternatives and that at minimum should have been considered to assess the extent to which the patterns were not idiosyncratic—appear to artificially inflate the patterns reported in the article.

c. Once adjustments taking into account the coding errors and alternative methodological choices are made, the putative disadvantages to children in same-sex households disappear: that is, the profile of children from same-sex households is similar to that of adult children from intact biological families.

Conclusion

18. The position that children from same-sex households fare as well as children from different-sex households is overwhelmingly compelling: it has been confirmed by multiple studies and endorsed by the major professional associations that focus on and have extensively studied the question of children’s well-being. The few studies that conclude otherwise have been

appropriately criticized for serious methodological flaws. The social scientific evidence is persuasive in challenging a rational basis for denying adoption rights to same-sex couples.

19. I declare under the penalty of perjury that the foregoing is true and correct.

Executed on October 12, 2015.

A handwritten signature in black ink that reads "Brian Powell". The signature is fluid and cursive, with "Brian" on top and "Powell" below it, both starting with a capital letter.

Brian Powell